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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SUHOL, DMITRY

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 12/31/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/820,081

Applicant(s)

FURRY, MICHAEL E.

Examiner

Dmitry Suhol

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## **DETAILED ACTION**

### ***Claim Objections***

Claim 2 is objected to because of the following informalities: the phrase "the selector is" should say "the selectors are" or "each selector is". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 3, 10, 25 and 30-33 the structural features encompassed by the phrase "pronunciation symbol" can't be determined, rendering the claim indefinite.

Regarding claim 5, there is no antecedent basis for "the selection pane".

Regarding claim 7, the structural features encompassed by the phrases "fictional characters" and "having a given name" can't be determined, rendering the claim indefinite.

Regarding claim 13, the structural features encompassed by the phrase "a vessel" can't be determined, rendering the claim indefinite.

Regarding claim 20, there is no antecedent basis for "the computerized learning device" and "the display".

Regarding claim 21, there is no antecedent basis for "the computerized learning device".

Regarding claim 22, the structural features/relationship encompassed by the phrase "configured to" can't be determined, rendering the claim indefinite.

Regarding claims 23, 26 and 31-33 the structural features encompassed by the phrase "name" can't be determined, rendering the claim indefinite.

Regarding claim 33, there is no antecedent basis for "the plurality of selectors".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-9, 18 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Rind. Rind discloses a language learning system containing all the elements of the claims including, a set of fictional characters as required by claim 7 (fig. 1, elements 42 and 56), a learning device configured to display at least one character along with an associated letter as required by claims 7 and 23 (fig. 1), the learning device including a wheel as required by claim 8, (fig. 1, element 11), each letter and character are

arranged radially on one of a plurality of character regions on the wheel as required by claim 9 (fig. 1) and a learning device including a disk shaped selector as required by claim 18 (fig. 2, element 11).

Claims 7 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Levin. Levin discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (col. 3, lines 68-71), a learning device configured to display at least one character along with an associated letter as required by claim 7 (fig. 4), the learning device including a block as required by claim 11 (fig. 4) and the letter and character positioned on adjacent sides of the block as required by claim 12 (fig. 4).

Claims 7 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Newell. Newell discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (fig. 1 and 2, elements 20 and 20'), a learning device configured to display at least one character along with an associated letter as required by claim 7 (fig. 1 and 2, elements 14 and 14'), the learning device including a vessel as required by claim 13 (fig. 1) and the letter and character positioned on opposite sides of the vessel as required by claim 14 (page 1, lines 64-76) where as shown in figures 1 and 2 the character of a mug is shown on one side while the letter "G" pertaining to the mug is shown on the opposite side.

Claims 7 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitner. Bitner discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (fig. 5, 6 and 7), a learning device configured to display at least one character along with an associated letter as required by claim 7 (fig. 5) where the character is the bird and the associated letter is "B" and the learning device including a card as required by claim 15 (col. 1, lines 55-57).

Claims 7 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Dillon. Dillon discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (fig. 3, elements 36 and 40), a learning device configured to display at least one character along with an associated letter as required by claim 7 (fig. 3) and the learning device including a doll as required by claim 16 (fig. 1, element 10).

Claims 7, 17 and 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Christian. Christian discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (col. 2, lines 38-42), a learning device configured to display at least one character along with an associated letter as required by claim 7 (col. 2, lines 38-42) and the learning device including a cone-shaped selector as required by claim 17 (fig.1).

Claims 7 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Siegel. Siegel discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (fig. 5), a learning device configured to display at least one character along with an associated letter as required by claim 7 (fig. 5) and the learning device is a computerized learning device having a display as required by claim 19 (fig. 5).

Claims 7 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Marcus. Marcus discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (col. 3, lines 4-14), a learning device configured to display at least one character along with an associated letter as required by claim 7 (col. 3, lines 4-14) and the learning device is a computerized learning device configured to the character or letter on a selector consisting of a block as required by claim 22 (col. 3, lines 42-44).

Claims 7 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell. Mitchell discloses a language learning system containing all the elements of the claims including a set of fictional characters as required by claim 7 (col. 1, lines 12-19), a learning device configured to display at least one character along with an associated letter as required by claim 7 (col. 1, lines 12-19) and the letter associated with the character is printed on a body of the character as required by claim 24 (fig. 1).

Claims 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell. Mitchell discloses a learning device containing all the elements of the claims including at least one character having at least one letter disposed thereon as required by claim 26 (fig. 1, elements 21 and 22), the character having a name starting with a letter on the character as required by claims 26 and 32 (col. 3, lines 12-19), a surface with a character positioned thereon as required by claim 27, 31 and 32 (fig. 1, element 25), the surface on a block as required by claim 28 (fig. 1), a second letter positioned on the surface adjacent the character as required by claim 29 (fig. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Rind and Thomson. Hill discloses a language learning system containing most of the elements of the claims including, a body as required by claim 1 and 33 (fig. 1, element 12), a plurality of phoneme selectors coupled to the body as required by claims 1 and 33 (fig. 5, elements 20,22,24,102 and 104), the phoneme selector being adjustable and having a letter as required by claims 1 and 33 (col. 2, lines 26-32) and the phoneme selector having a pronunciation symbol as required by

claims 1 and 33 (col. 3, lines 51-64) where the colored letters are in themselves pronunciation symbols. Hill further discloses that the selector is wheel shaped as required by claim 2 (fig. 5, element 20), the body including a selection pane as required by claims 4-5 and 33 (fig. 5, element 28), the plurality of phoneme selectors includes five phoneme selectors as required by claim 6 (fig. 1, elements 20,22,24,102 and 104).

Although Hill discloses most of the elements of the claims as stated above, the reference fails to mention a character as required by claims 1 and 33, a target window as required by claims 1 and 33, a plurality of character regions having letters, characters and pronunciation symbols positioned on the selector as required by claims 3 and 33. However, Rind teaches a character (col. 1-2, lines 67-68 and 1-2 respectively) and a plurality of character regions (fig. 1, elements 12, 14 and 16) in a language learning device. Thomson teaches a target window (fig. 1) in a device like that of Hill. Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, in view of Rind, to manufacture the language learning system of Hill with character regions having a character, a letter, and a pronunciation symbol for the purpose of interest to the consumer. It would have been further obvious, in view of Thomson, to manufacture the system of Hill with a target window for the purpose of interest to the consumer.

Claims 10 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rind in view of Hill. Rind discloses all the elements of the claims as stated above but for a pronunciation symbol associated with a phoneme and positioned within the

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character region. However, Hill teaches a pronunciation symbol (col. 3, lines 51-64) in a language learning device. Therefore it would have been obvious, in view of Hill, to modify the device of Rind to include a pronunciation symbol positioned within the character region for the purpose of increasing the educational value of the device.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell in view of Hill. Mitchell discloses most of the elements of the claims as stated above but for, a pronunciation symbol corresponding to the letter as required by claims 30-31. However, Hill teaches a pronunciation symbol corresponding to a letter (col. 3, lines 51-64) in a language learning device. Therefore it would have been obvious, in view of Hill, to manufacture the device of Mitchell with a pronunciation symbol for the purpose of increasing the educational aspect of the device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacob Ackun can be reached on 703-308-3867. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ds  
December 21, 2001

  
John A. Ricci  
Primary Examiner